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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,511	01/07/2002	Oren Wolstein	2708/1	5145

7590 08/26/2003

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EXAMINER

GARRETT, ERIKA P

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 08/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/036,511

Applicant(s)

WOLSTEIN, OREN

Examiner

Erika Garrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed June 11, 2003 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bengtson (5,720,520). In regards to claim 1, Bengtson discloses the use of a seat bench (10) having a substantially uninterrupted planar upper surface design and configured to be mounted on the carriage in a substantially horizontal orientation; at least one first seat attachment (26) element disposed at a respective end of the seat bench, at least one first seat attachment element configured to engaged at least one respective structural member (76) of the carriage (78). In regards to claim 2, at least one first seat attachment element includes a bracket design and configured such that the engagement is by clamping to the structural member. In regards to claims 3- 5, at least one-second-seat attachment element includes a mechanism (54) for adjusting a

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fore to aft position of the second seat attachment mechanism relative to the seat bench. In regards to claim 6, a substantially vertically disposed seat back (14) attached to the seat bench. In regards to claim 7, mechanism (34) for securing a child to the seat. In regards to claim 8, a resilient element is selected from the group consisting of a strap (70&72) and hooks and loop fasteners (80&82). In regards to claim 9, the bench and the seat back are constructed as one piece. In regards to claim 10, at least one element of the group elements including the bench and the seat back is furnished with padding (64).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-24 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Bengtson in view of Adams (3,538,552). In regards to claims 11-24, Bengtson shows the use of all the claimed invention but fails to show the use of at least one extension element slidably mounted within a channel attached to the seat bench. South teaches the use of an extension element sliding mounted within a channel. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the seat bench with an extension element as taught by South in order to adjust the bench to a desired length.

### ***Response to Amendment***

The examiner has considered and reviewed the applicant's Amendment, filed on June 11, 2003. It's the examiner's position that the following claims are rejected. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bengtson (5,720,520). Claims 11-24 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Bengtson in view of Adams (3,538,552). In response to applicant's argument that Bengtson, fails to teach "*a substantially uninterrupted planar upper surface*", applicant is directed to the above rejection. The examiner of the opinion the Bengtson shows the use of a substantially uninterrupted planar upper surface. In response to applicant's argument that Bengtson, fails to teach *the use of the back board 14 as a seat back, such teachings contradicts the unequivocal teachings of seat 32 including a padded headrest*", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. **If the prior art structure is capable of performing the intended us, then it meets the claim.** The examiner is of the opinion that the back board (14) is capable in fact of performing the use of a seat back assembly especially for of small structure i.e. babies and infants. See In re Casey, 152 USPQ 235 (CCPA 1967) and In re Otto, 136 USPQ 458,459 (CCP 1963).


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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 703-605-0758.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

EG  
August 19, 2003

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600